

ESTTA Tracking number: **ESTTA575719**Filing date: **12/10/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Luxco, Inc.		
Entity	Corporation	Citizenship	Missouri
Address	1010 Clark Street St. Louis, MO 63105 UNITED STATES		

Attorney information	Michael R. Annis HUSCH BLACKWELL LLP 190 Carondelet Plaza, Suite 600 St. Louis, MO 63105 UNITED STATES mike.annis@huschblackwell.com Phone:314-480-1500
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**Registration Subject to Cancellation**

Registration No	4407601	Registration date	09/24/2013
Registrant	OPICI IMPORT CO. INC. 25 DEBOER DRIVE GLEN ROCK, NJ 07430 NJ		

**Goods/Services Subject to Cancellation**


Class 033. First Use: 2013/04/24 First Use In Commerce: 2013/04/24 All goods and services in the class are cancelled, namely: Distilled Spirits; Liquor; Whiskey
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	727786	Application Date	04/11/1961
Registration Date	02/20/1962	Foreign Priority Date	NONE
Word Mark	REBEL YELL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 1937/08/00 First Use In Commerce: 1937/08/00 Straight Bourbon Whiskey		

U.S. Registration No.	3632812	Application Date	05/05/2008
Registration Date	06/02/2009	Foreign Priority Date	NONE
Word Mark	REBEL RESERVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2008/09/29 First Use In Commerce: 2008/09/29 liquors and distilled spirits		

U.S. Application No.	77758725	Application Date	06/12/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FOUR REBELS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 Vodka		

U.S. Application No.	77758705	Application Date	06/12/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	4 REBELS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 0 First Use In Commerce: 0 Vodka

Attachments	77465392#TMSN.jpeg( bytes ) 77758725#TMSN.jpeg( bytes ) 77758705#TMSN.jpeg( bytes ) Opici Petition.PDF(178074 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ Michael R. Annis
Name	Michael R. Annis
Date	12/10/2013

**CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on December 10, 2013.

/s/ Andrew Gilfoil

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Mark: REBELLION  
U.S. Application Serial No. 85/444,902  
U.S. Registration No. 4,407,601

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LUXCO, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. _____
	)	
OPICI IP HOLDINGS, LLC,	)	U.S. Reg. No. 4,407,601
	)	
Registrant.	)	

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**PETITION TO CANCEL  
U.S. REGISTRATION NO. 4,407,601**

Luxco, Inc. ("Luxco" or "Petitioner"), a corporation organized and existing under the laws of the State of Missouri, having its principal place of business at Luxco, Inc., 1010 Clark Street, St. Louis, Missouri, believes it will be damaged by the continued registration of the mark REBELLION claimed in U.S. Registration No. 4,407,601.

As grounds for its opposition, it is alleged that:

1. Registrant Opici IP Holdings, LLC ("Registrant"), or its predecessor in interest, in U.S. Application Serial No. 85/444,902 (the "902 Application"), applied for registration of the trademark REBELLION on October 11, 2011, for "Distilled spirits; liquor; whiskey" in International Class 33 under Section 1(b) of the Lanham Act (the "REBELLION Mark"). The

'902 Application was published for opposition in the Official Gazette on January 10, 2012 and was ultimately approved for registration on August 9, 2013. The '902 Application matured to U.S. Registration No. 4,407,601 (the "'601 Registration") on September 24, 2013.

2. Luxco is the owner of the mark REBEL YELL in connection with straight bourbon whiskey and the mark REBEL RESERVE in connection with liquors and distilled spirits. Luxco is also the owner of the below-noted United States Trademark registrations with the identified dates of first use in commerce:

<b>MARKS</b>	<b>U.S. REG./SER. NO.</b>	<b>GOODS DESCRIPTION</b>	<b>DATE FIRST USED IN COMMERCE</b>
REBEL YELL	Reg. No. 727,786	Straight Bourbon Whiskey	August 1, 1937
REBEL RESERVE	Reg. No. 3,632,812	Liquors and Distilled Spirits	September 29, 2008

3. In addition, Luxco also owns certain common law rights in the REBEL YELL and REBEL RESERVE trademarks.

4. Luxco is also the owner by assignment of the marks FOUR REBELS and 4 REBELS in connection with vodka, and the United States applications noted below:

<b>MARKS</b>	<b>U.S. REG./SER. NO.</b>	<b>GOODS DESCRIPTION</b>
FOUR REBELS	Ser. No. 77/758,725	Vodka
4 REBELS	Ser. No. 77,758,705	Vodka

5. In addition, Luxco also owns certain common law rights in the 4 REBELS and FOUR REBELS trademarks.

6. Luxco's aforementioned common law rights and the above-noted registrations and applications are collectively referred to herein as the "REBEL Marks."

7. Luxco's REBEL Marks are inherently distinctive and uniquely associated with Luxco in connection with Luxco's goods offered under the REBEL Marks by reason of the continuous use and promotion by Luxco and/or its predecessors-in-interest.

8. Luxco or its predecessors-in-interest have used the mark REBEL YELL in connection with straight bourbon whiskey since as early as August 1, 1937, long before Applicant's filing of the '902 Application.

9. Similarly, Luxco has used the mark REBEL RESERVE in connection with liquors and distilled spirits since at least as early as September 29, 2008, long before Applicant filed the '902 Application.

10. Luxco, its licensees and its predecessors-in-interest have promoted, caused to be promoted, and are now promoting and causing to be promoted the REBEL Marks in interstate commerce within the United States for identifying these goods.

11. Through this use and promotion, Luxco has established valuable goodwill in the REBEL Marks, and the relevant public has come to recognize the REBEL Marks as an indication of the products that emanate from Luxco.

12. Luxco has spent substantial sums of money to widely and extensively advertise and promote the goods it sells and offers for sale under the REBEL Marks.

13. Notwithstanding Luxco's prior rights in the REBEL Marks, on October 11, 2011, Registrant filed the '902 Application in the United States Patent and Trademark Office for registration of the mark REBELLION for "Distilled spirits; liquors; whiskey" in International Class 33.

14. On information and belief, Registrant knew or had reason to know of Luxco's prior rights in the REBEL Marks when filing the '902 Application.

15. The registration for the REBELLION Mark herein petitioned so resembles Luxco's REBEL Marks as to be likely, if used in conjunction with Registrant's goods, to cause confusion, mistake or deceive customers, and Registrant's Mark under the '601 Registration is confusingly and deceptively similar to Luxco's REBEL Marks when used in connection with Registrant's goods.

16. Similarly, Registrant's goods are or will be targeted, offered, and sold to the same class of prospective buyers as those for Luxco's goods, and Applicant's and Luxco's goods are so commercially related that Registrant's REBELLION Mark under the '601 Registration and LUXCO's REBEL Marks, when used in conjunction with their respective goods, are confusingly similar.

17. Registrant's suggested use of its REBELLION mark under the '601 Registration so resembles Luxco's REBEL Marks that it is likely to cause confusion, mistake or deception of purchasers as to the source of Registrant's goods and will inevitably falsely suggest a trade connection between Luxco and Registrant.

18. Continued registration of the REBELLION Mark will support and assist Registrant in the confusing and misleading use of the REBELLION Mark and will cause Luxco to lose control over the good and valuable reputation derived from its REBEL Marks, causing irreparable harm and injury to Luxco.

WHEREFORE, Opposer Luxco, Inc. prays that U.S. Registration No. 4,407,601 be cancelled and further that this Petition be sustained in favor of Luxco.

DATED: December 10, 2013.

Respectfully Submitted,

By: /Michael Annis/  
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*Attorneys for Luxco, Inc.*



**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a copy of the foregoing PETITION TO CANCEL was served by First Class Mail, postage prepaid on this 10th day of December, 2013, upon:

Stephen L. Baker  
Baker & Rannells P.A.  
575 Route 28, Ste. 102  
Raritan, New Jersey 08869-1354

and

Opici Import Co. Inc.  
25 Deboer Drive  
Glen Rock, New Jersey 07430

/Andrew Gilfoil/